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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,307	09/01/2006	Leonardus Hubertus Maria Lammers	207,801	9213

7590 02/25/2008  
Steven M Hertzberg  
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666 Third Avenue 10th Floor  
New York, NY 10017-5621

EXAMINER
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BRINSON, PATRICK F

ART UNIT	PAPER NUMBER
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3754

MAIL DATE	DELIVERY MODE
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02/25/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/591,307

Applicant(s)

LAMMERS, LEONARDUS  
HUBERTUS MARIA

Examiner

Patrick F. Brinson

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 January 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 6-20 is/are pending in the application.
- 4a) Of the above claim(s) 16-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 9/1/2006.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of Group I, claims 1-4 and 6-16 in the reply filed on January 24, 2008 is acknowledged.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 8-11 and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 5,409,477 to **Caron et al.**

The patent to **Caron et al.** discloses a flow restriction device fitted into a fluid line comprising a conduct, provided with a baffle (50), positioned perpendicular to the direction of flow that is provided with an opening which links an upstream and downstream section of the line. **Caron et al.** discloses an opening (48) is provided in the baffle with a diameter that can range from about 0.0011 to about 0.0050 inches (27.9 to 127  $\mu\text{m}$ ), as recited in claims 1, 3 and 15. The thickness of the baffle plate (30) is 0.012 inches, having a tolerance of +0.002 inches (0.25 to 0.35 mm), as recited in claims 1, 4, and 15. The conduit and baffle are produced from a one piece

polycarbonate plastic material, as recited in claims 1, 8 and 15. The conduit is in connection with tubing (14), as recited in claim 9 and it also includes a self-seeking edge at (28) as well as coupling piece at the opposite end, as recited in claims 10 and 11. The opening has what can be considered a slot, conical opening (44) just in front of the opening. The conduit comprises a medical metering device, as recited in claim 16. In regard to the fluid flow through the flow restriction being laminar, the **Caron et al.** reference discloses the restriction opening within the recited ranges, and therefore the fluid there through will be laminar.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Caron et al.** in view of U.S. 4,654,026 to **Underwood**

The patent to **Caron et al.** discloses the recited structure, with the exception of providing identification means. The patent to **Underwood** discloses an intravascular tube assembly. Disposed at intervals along the tubes are indicia (11, 12) comprised of

numbers printed on the tubes. The indicia, however, may take other forms, including letters, bands of color or other symbols. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide to the conduit of **Caron et al.** identification means as suggested by **Underwood** in order to identify the substance of the fluid flowing through the conduit.

4. Claims 2, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Caron et al.** in view of U.S. 2,484,418 to **Mercier**.

The patent **Caron et al.** discloses the recited structure with the exception of providing a plurality of openings nor does it disclose the opening being conical with the opening widening in the direction of fluid flow. The patent to **Mercier** discloses a device including a flow restriction member (6) including a plurality of openings (7), through which fluid flows. The opening having a conical portion (12), with the axis of the cone coincidental with the axis of the opening and widening in the direction of fluid flow. It is disclosed, col. 2, that the member is so shaped to minimize turbulence and to provide adequate capacity for the passage of fluid in and out of the container. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the baffle of **Caron et al.** to have a plurality of passages and to provide each opening with a conical portion that widens in the

direction of flow, both as suggested by **Mercier** in order to aid in providing laminar flow and to allow for greater flow through the baffle.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Martin, Schommer, Lasaitis et al., and Gunter are pertinent to Applicant's invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Patrick F. Brinson** whose telephone number is (571) 272-4897. The examiner can normally be reached on M-F 7:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Kevin P. Shaver** can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patrick F. Brinson/  
Primary Examiner  
Art Unit 3754

P. F. Brinson  
February 16, 2008